



Town of Brookline

Massachusetts

**Department of Planning and
Community Development**

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Jeffrey R. Levine, AICP
Director

**TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 060070**

Petitioner, Alex Elentukh, applied to the Building Commissioner for permission to construct a second driveway to accommodate parking for one additional vehicle at 64 University Road. The application was denied and an appeal was taken to this Board.

On November 9, 2006, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and originally fixed December 21, 2006, at 7:00 p.m., as the time and place of a hearing on the appeal in the Selectmen's Hearing room on the sixth floor of the Town Hall. Notice of the scheduled hearing was mailed to the Petitioner, to his attorney (if any of record), to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published November 30, 2006 and December 7, 2006, in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **Alexander Elentukh and Irana Figo**
Location of Premises: 64 UNIVERSITY ROAD BRKL
Date of Hearing: **12/21/2006**
Time of Hearing: **7:00 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th. Floor**

A public hearing will be held for a variance and/or special permit from: **1) For the design of all off-street parking facilities; §6.04.05.b, Variance required and §6.04.12, Special Permit required and 2) § 8.02.2, alteration or extension, Special Permit required** of the Zoning By-Law to construct a new driveway in addition to the existing driveway per plans at **64 University Road, Brookline.**

Said Premise located in a M-1.0 district.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Diane R. Gordon
Harry Miller
Bailey Silbert**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chair, Diane Gordon and Board members Enid Starr and Lawrence Kaplan.

Fred Lebow of FSL Associates, 18 Shepard Street, Boston, MA 02135, presented the case for the petitioner. In 1984 a Special Permit, case # 2620, was issued to allow the conversion of the basement to a dwelling unit. The Board, at that time waived the requirement of an additional parking space to accommodate the unit. Mr. Lebow described the property as a three family home which, he believes has been converted into condominiums. He stated that there is parking

for two vehicles to the right of the house, that this was a request to allow the construction of a driveway to the left of the house for one additional vehicle. He stated that the new driveway would be within the front yard setback of the property. Mr. Lebow described the neighborhood as mostly multi-family dwellings and primarily because of topography, parking it as a premium. He stated that along University Road there are several properties with driveways on both sides of the homes. Mr. Lebow said the initial plan; option #1 was to add a drive for one parking space to the left of the home in addition to the two spaces on the right which already exist. After the Planning Board hearing he designed option #2, to provide for three "tandem" spaces in the existing driveway to the right. The Chair inquired about the length of the spaces in option #2 and Mr. Lebow stated that they could be laid-out to conform to the required 18' per vehicle. In closing, Mr. Lebow stated that anticipating the repaving of University Road he sought and received permission from the DPW for an additional curb-cut. Mr. Lebow stated that the petitioner favored option #1; that it would fit in the neighborhood and present none of the problems associated with three cars parked in tandem as depicted on his plan dated 12/21/06. In closing Mr. Lebow stated that the construction would be tastefully done using pavers and additional landscaping would be provided to accommodate the change. He said he needed relief in the form of two Special Permits from §'s **6.04.12** and **8.02.2** of the zoning by-law.

The Chair then asked whether anyone wished to speak in favor of or against the proposal. Mr. Figo of 89 University Road, son of the petitioners, stated that the road was very congested and that the proposal would get one more vehicle off the road. He said that the home is very large and needs three spaces and that the proposal, option #1, would not interfere with any landscaping. Mr. David Cotney of 79 University Road rose in opposition. He stated that he lives across the street and that if granted, this would be the only three-family with parking on both

sides of the street. He said granting of this proposal will invite a significant number of similar requests in the neighborhood. He stated that he would have no objection to option #2 as it would not involve the second driveway.

The Board entered into the testimony a letter from a resident of the subject dwelling, supporting the proposal for an additional driveway.

At the hearing, Polly Selkoe, Assistant Director for Regulatory Planning reviewed the Planning Board report. She stated that the Planning Board voted 4-1 to recommend that the Board of Appeals deny the application. While the Planning Board is sympathetic to the applicant's desire to create additional parking, the property currently has a driveway which allows for parking of two vehicles, which is typical of other homes in the area. Additionally, the location of the parking area within the front yard setback and the additional curb-cut would have a negative visual impact on the neighborhood. Ms. Selkoe described the relief required as follows:

Section 6.04.5.b Design of All Off-Street Parking Facilities

Section 6.04.12 Substitution of Dimensional Requirements for Off-Street Parking Facilities

	Required	Proposed	Relief
Minimum Front Yard Setback for Parking Area	10 Feet	1 Foot	SPECIAL PERMIT*
Minimum Side Yard Setback for Parking Area	5 Feet	3 Feet	SPECIAL PERMIT*

*Under Section 6.04.12 the Board of Appeals may waive dimensional requirements for parking facilities to serve existing buildings.

Frank Hitchcock, Senior Building Inspector, spoke on behalf of the Building Commissioner. He restated the relief could be granted in the form of two Special Permits, § **6.04.12** to adjust dimensional requirements required for parking and § **8.02.2** for non-conforming existing parking. Mr. Hitchcock stated that traditionally parking was

required 1-1. That is, one unit one space. The application of this reasoning would require three parking spaces. He stated that three "tandem" spaces might present difficulties regarding coordination between the three tenants/homeowners. He mentioned that most relief for tandem spaces, usually two, is provided for one owner. Option #1 would provide no displacement of useable open space and that the Building Department feels option #1 is the best proposal and therefore has no objection to the petitioner's request for relief nor do they have any objection to the Special Permits required for relief.

The Chair then asked Mr. Lebow if he wished to make a closing statement and he stated that they would be using quality materials and would do a quality job to so as to provide a positive impact on the neighborhood.

The Plan of Record is by FSL Associates, dated December 21, 2006 revised December 26, 2006.

The Board having deliberated on this matter and having considered all the foregoing testimony, concluded that it is desirable to grant the relief requested for the two-driveway scheme under § 6.04.12 and § 8.02.2 and made the following findings pursuant to § 5.09 and 9.5 of the zoning by-law:

1. The specific site is an appropriate use for such a use, structure, or condition.
2. The use as proposed by the Petitioner will not adversely affect the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to obtaining a building permit, the applicant shall submit to the Assistant Director for Regulatory Planning for review and approval a final landscape plan, signed and stamped by a registered engineer or landscape architect, delineating all materials and improvements thereon.
2. Pavers shall be used on the new parking area as well as the existing parking area.
3. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals Decision: 1) a final site plan, indicating parking area locations and materials stamped and signed by a registered engineer or land surveyor and 2) evidence that the Board of Appeals Decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals

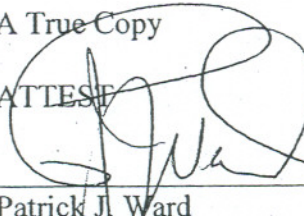

Diane R. Gordon

Filing Date: January 5, 2007

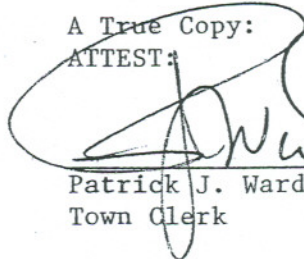
Twenty days have elapsed and
no appeal has been filed.

A True Copy

ATTEST


Patrick J. Ward
Clerk, Board of Appeals

A True Copy:
ATTEST:


Patrick J. Ward
Town Clerk

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